

REMARKS

Reconsideration is requested.

Claims 1-24 and 44 have been canceled, without prejudice. Claims 25-43 and 45-48 are pending.

An interview with the Examiner is requested in the event the present Amendment is not believed to place the application in condition for allowance. A separate Request in this regard is attached.

The Section 102 rejection of claims 26, 28, 30, 32, 34, 36, 38, 45 and 46 over Mennesson (FR 2607786), is traversed. Reconsideration and withdrawal of the rejection are requested as the applicants believe that the cited reference does not describe a liquid containment element adapted to retain liquid in the container axially distinct from the orifice by capillary effect, such as is defined in, for example, claim 26 of the present application. Moreover, the applicants believe that there is no pressure equalizing element which equalizes pressure between inside and outside when the gripping portion of the cap is partially engaged with the gripping portion of the nozzle. The Examiner is understood to believe that as soon as a cap is in contact with the nozzle, there is a partial gripping. The applicants respectfully submit however that even if there is a partial gripping, there is only partial gripping when the threads or the rib of the cap is in functional cooperation with diametral interference with corresponding means, threads or rib of the nozzle. The revision to claim 45 above makes this distinction clear. The claims are submitted to be patentable over the cited Mennesson document. Reconsideration and withdrawal of the Section 102 rejection of claims 26, 28, 30, 32, 34, 36, 38, 45 and 46 over the same is requested.

The Section 102 rejection of claims 25-29, 31, 43 and 46 over Baugh (U.S. Patent No. 3,592,349), is traversed. Reconsideration and withdrawal of the rejection are requested as the cited document discloses a cap having an upper wall provided with an opening 19, which the applicants believe is contrary to the presently claimed invention. Withdrawal of the Section 102 rejection of claims 25,29, 31, 43 and 46 over Baugh is requested.

The Section 102 rejection of claims 25-43 and 45-48 over Dyke (U.S. Patent No. 4,304,869), is traversed. Reconsideration and withdrawal of the rejection are requested for the following reasons.

The cited patent is believed to describe an apparatus for rupturing sealed, frangible container by means of a zone of reduced cross section. The nozzle of the container comprises a radial rim extending outwardly and adapted to cooperate with notches 38 or 39 provided at different axial levels of axial ribs in the bore of the outer wall 28 of the cap. The cap further comprises an internal radial wall having a length greater than the length of the outer wall. The applicants submit that the inner wall is provided with axial cutouts extending from its lower free end to the vicinity of the top 26 of the cap. In the position shown on Figure 4, the liquid may escape between the cap and the nozzle by going to the cutouts of the inner wall near the flanged portion 22 of the container and flowing out of the container between the flanged portion 22 and the outer wall 28 of the cap. Consequently, the applicants believe the liquid may escape outside.

The applicants respectfully submit that this cited document does not describe a liquid container element adapted to retain liquid in the container axially distant from an

orifice as long as a gripping portion of the cap is engaged onto the nozzle. In the completion closing position of Figure 5, the circumferential sealing bead 41 formed and the outer surface of the inner wall of the cap prevent the liquid from going near the orifice of the nozzle. In the position of Figure 4, the sealing bead 41 is no more in contact with the container and cannot work.

The applicants respectfully submit that the presently claimed invention is patentable over Dyke and reconsideration and withdrawal of the Section 102 rejection based on the same are requested.

The Section 102 rejection of claims 26, 28 and 46 over Aichinger (U.S. Patent Nos. 3,987,921 or 4,253,581), is traversed. Reconsideration and withdrawal of the rejection are requested as the applicants believe these documents describe a thread and a cap provided with an internal skirt having an annular lip directed radially outwardly and in contact with the bore of the nozzle. The internal wall is relatively short with regard to the axial length of the cap. Such a cap cannot provide any capillary effect and does not allow a communication between a zone inside the container and the outside when the threads of the cap are engaged with the corresponding threads formed on the outer surface of the nozzle. Accordingly, the claims are submitted to be patentable over the cited Aichinger documents and withdrawal of the Section 102 rejections based on the same is requested.

The Section 103 rejection of claims 40 and 42 over Mennesson is traversed. Reconsideration and withdrawal of the rejection are requested as Mennesson is not believed to teach or suggest the invention of claims 40 and 42 for the reasons noted above with regard to the anticipation rejection. It would not have been obvious to have

made the invention of claims 40 and 42 from the teaching of Mennesson.

Reconsideration and withdrawal of the Section 103 rejection of claims 40 and 42 over Mennesson are requested.

The Section 103 rejection of claims 33, 35, 37, 39 and 41 over Baugh in view of Mennesson is traversed. Reconsideration and withdrawal of the rejection are requested as Mennesson is not believed to cure the deficiencies noted above with regard to Baugh. It would not have been obvious to have made the invention of claims 33, 35, 37, 39 and 41 in view of the teachings of Baugh and Messesson.

Return of an initialed copy of the attached PTO-1449 Form is requested. The cited documents were received from the assignee's Japanese attorney in a corresponding Japanese application. An English translation of JPAH 11-169230 is attached. Further English language translations of the remaining documents and/or an English language description of the alleged relevance of the documents will be filed in the near future under separate cover. The Examiner is requested to contact the undersigned in the event the Examiner reaches the case for action prior to receipt of a further paper with such English language documents.

As indicated above, an interview with the Examiner is requested in the event the above amendments are not believed to place the application in condition for allowance. The interview is requested prior to the Examiner's issuance of a further Action.

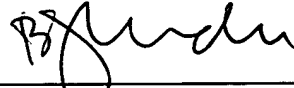
The claims are submitted to be in condition for allowance and a Notice to that effect is requested.

DE LAFORCADE
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Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____



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